

Prepared by: Virginia Department of Environmental Quality
1111 East Main Street, Suite 1400
Richmond, Virginia 23219
(804) 698-4000

Grantor: [Current Site Owner]

Grantee: [Current Site Owner]

Tax Map Number(s): [Identify]

Comment [MRP1]: The bracketed text throughout this template should be replaced with Site-specific information or deleted, as applicable. Remove all instructional information and brackets before submitting the draft Certificate to the Department for review.

**COMMONWEALTH OF VIRGINIA
VOLUNTARY REMEDIATION PROGRAM
CERTIFICATION OF
SATISFACTORY COMPLETION OF REMEDIATION**

**Voluntary Remediation Program
Participant ("Participant"):**

[Name(s) of Participant(s)]

Site Owner:

[Name(s) of Current Site Owner(s)]

Site Name ("Site"):

[Site Name]

Site Location:

[Site Address]

**Voluntary Remediation Program
Site Identification Number:**

[Site ID Number]

**Deed Book and Page Number/
Instrument Number of Site Owner's Title:**

Deed Book No. _____

Deed Book Page No. _____

Instrument No. _____

Comment [TR(2)]: Deed Book No. and Page and Instrument Number may not always be used, select as appropriate.

Locality of Record:

[City or County where Site is located]

Description of Property:

[Insert legal description, or add it as an attachment with a site map or survey that includes acreage amount]

Acreage:

[Identify]

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Current Zoning:

[Identify]

Proposed Use of Property:

[For example: Residential, Commercial, or Industrial]

Conditions of Issuance (if any):

[If there are no conditions, state, "None."]

[If there are conditions, state the following, with appropriate modifications: "Institutional controls, i.e., deed restrictions incorporated in the Declaration of Restrictive Covenants (included as Attachment), to ensure that: [Enumerate conditions, such as the following examples] (1) groundwater beneath the Site shall not be used for any purpose other than environmental monitoring and testing, or de-watering in compliance with law and (2) the Site shall not be used for residential purposes or for children's (under the age of 16) daycare facilities, schools, or playgrounds (although hotels and motels are not prohibited)."]

Comment [TR(3): Identify attachment

[If applicable, insert: "In addition, the Participant or its successors shall conduct sampling as defined in the Post-certification Monitoring Plan dated [Date], on file at the Office of Remediation Programs at the Department of Environmental Quality."]

Encumbrances :

[List all deeds of trust and encumbrances on the property that are affected by the use restrictions, such as utility easements or rights of access. For example: "(1) Deed of Trust made [Date], by and among ____ (Grantor), ____ (Trustee), and ____ (Bank) (Deed Book __, Page__)." Trustees, holders of rights of way, and other parties with a property interest must be a party to and execute the Declaration of Restrictive Covenants.]

AUTHORITY

PURSUANT to the Code of Virginia ("Va. Code §§"), Va. Code §§ 10.1-1230 *et seq.*, and the Voluntary Remediation Regulations (Title 9 of the Virginia Administrative Code ("9 VAC"))

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§§ 20-160-10 *et seq.*), the Participant submitted an application on [Date] to enroll the Participant and the Site in the Voluntary Remediation Program (“Program”). By letter dated [Date], the Waste Management Board, acting through the Director of the Department of Environmental Quality (“Director”), deemed the Participant and Site eligible and notified the Participant that the Site was enrolled in the Program. The Program provides for the Participant’s voluntary remediation of releases of hazardous substances, hazardous waste, solid waste, or petroleum from the Site that is the subject of this Certification of Satisfactory Completion of Remediation (“Certificate”), issued under 9 VAC 20-160-110.

DETERMINATION

Pursuant to the authority granted under Va. Code §§ 10.1-1230 *et seq.*, the Director, or his designee, has reviewed the Voluntary Remediation Report (“Report”), concurs with all work submitted, as set forth in 9 VAC 20-160-80, has determined that the environmental impacts identified at the Site do not present an unacceptable risk to human health and the environment [if the institutional controls mentioned above are implemented], and hereby issues this Certificate. No further action is required at the Site [except for monitoring and the imposition of institutional controls as noted above].

As a result of the issuance of this Certificate, the Participant, current and future owners of the Site, and their successors-in-interest are afforded immunity from an enforcement action under the Virginia Waste Management Act (Va. Code §§ 10.1-1400 *et seq.*), the State Water Control Law (Va. Code §§ 62.1-44.2 *et seq.*), the Air Pollution Control Law (Va. Code §§ 10.1-1300 *et seq.*), or other applicable Virginia law. The immunity accorded by the Certificate shall apply to the Participant, current and future owners of the Site, and their successors-in-interest and shall run with the land identified as the Site.

RESERVATION OF RIGHTS

The immunity granted by issuance of this Certificate shall be limited to Site conditions at the time of issuance as those conditions are described in the information submitted by the Participant pursuant to participation in the Program. The immunity is further conditioned upon satisfactory performance by the Participant of all obligations required by the Director under the Program and upon the veracity, accuracy, and completeness of the information submitted to the Director by the Participant relating to the Site.

The immunity provided for under this Certificate does not pertain to any matter other than that expressly specified in the section, above, entitled “Determination.” The Director reserves, and this immunity is without prejudice to, the right to revoke or modify the Certificate (1) in the event conditions at the Site, unknown at the time of issuance of the Certificate, pose a risk to human health or the environment; or (2) in the event that the Certificate was based on information that was false, inaccurate, or misleading. The Director further reserves, and this Certificate and immunity are without prejudice to, the right to pursue any and all claims for liability for failure to meet a requirement of the Program, criminal liability, or liability arising from future activities at the Site which may cause contamination by pollutants. By issuance of this Certificate, the Director does not waive sovereign immunity.

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This Certificate is not and shall not be interpreted to be a permit or a modification of an existing permit or administrative order issued pursuant to state law, nor shall it in any way relieve the Participant of its obligation to comply with any other federal or state law, regulation, or administrative order. [This Certificate and the Declaration of Restrictive Covenants **may** be modified or released only in accordance with 9 VAC 20-160-65 and with the consent of the Director, upon a showing of changed circumstances sufficient to justify the change.] Any new permit or administrative order, or modification of an existing permit or administrative order, must be accomplished in accordance with applicable federal and/or state laws and regulations.

Comment [MRP4]: Applies to sites with restrictions. Remove as necessary

DISCUSSION OF RELEVANT INFORMATION

[Provide a brief Site history, including relevant information about current and past owners. Briefly describe relevant components of the Site Characterization Report, Risk Assessment, Remedial Action Plan, Demonstration of Completion, and Documentation of Public Notice that formed the basis for the issuance of this Certificate. Include a description of the contaminants of concern; impacted media; pathways of exposure; limits on exposure; location and extent of contamination; and remedy/corrective action undertaken, if applicable. Describe any restrictions on the future use of the Site, explaining the nature and purpose of each restriction, for example: "The risk assessment concluded that contamination in the soil and groundwater at the Site does not present an unacceptable risk to human health or the environment, provided that the impacted groundwater at the Site is not used for drinking water purposes." Also describe any required engineering controls and their maintenance.]

In consideration of the ["above" or "implementation of the above-noted monitoring and institutional controls"], the Director has accepted the conclusions of the Report.

(Signature pages follow.)

[If there are no institutional controls:]

This Certificate is conditioned upon its being signed by the Participant and the Site Owner. Because this Certificate does not include any use restrictions, recordation is at the option of the Participant. If this Certificate is recorded in the land records of [Name of County or City], Virginia, a certified copy of the Certificate as recorded is requested to be submitted electronically or mailed to the Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, ATTN: Voluntary Remediation Program, within 90 calendar days of its issuance.

[If the Certificate does include institutional controls:]

This Certificate is conditioned upon its being signed by the Participant and the Site Owner and its being recorded within 90 calendar days of its issuance, in the land records of [Name of County or City], Virginia. A certified copy of the Certificate as recorded must be submitted electronically or mailed to the Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, ATTN: Voluntary Remediation Program.

**David K. Paylor, Director
Department of Environmental Quality**

Date: _____

BY: _____
Chris M. Evans, Director
Office of Remediation Programs

COMMONWEALTH OF VIRGINIA

CITY OF RICHMOND

The foregoing instrument was acknowledged before me this ____ day of _____, _____, by Chris M. Evans, who is personally known to me. Chris M. Evans voluntarily acknowledged this instrument as Director of the Office of Remediation Programs, authorized representative of the Department of Environmental Quality.

Notary Public

Registration Number: _____

My Commission expires: _____

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[If the Site Owner and Participant are the same, use only the following signature block:]

Date: _____

BY: _____

[Name of Participant]

[Name of Participant's Representative]

[Title of Participant or Representative]

State of _____, County of _____

The foregoing instrument was acknowledged before me this [Date] by [Name of person who signed].

Notary Public

Registration Number: _____

My Commission expires: _____

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[If the Site Owner and Participant are not the same, add the following signature block:]

Date: _____ BY: _____
[Name of Site Owner]

State of _____, County of _____

The foregoing instrument was acknowledged before me this [Date] by [Name of person who signed].

Notary Public

Registration Number: _____

My Commission expires: _____

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants made as of this ____ day of [Month, Year], under the authority of Code of Virginia Section 10.1-1230 *et seq.* and Title 9 of Virginia Administrative Code Section (“9 VAC”) 20-160-110, by [Name of Site Owner], owner of the fee simple title to the property hereinafter described, GRANTOR, [If there are trustees, add “and by [Name(s) of Trustee(s)], Trustee(s),”] as follows:

Comment [MRP5]: The bracketed text throughout this model should be replaced with Site-specific information or deleted, as applicable. Remove all instructional information and brackets before submitting the draft Certificate to the Department for review.

ALL THAT certain tract, piece or parcel of land containing a total [Amount of acres] acres, lying and being in the City of [Name of City], Virginia, and [Metes-and-bounds description of property and/or reference to attached plat].

WHEREAS, [Name of Site Owner] is the fee simple owner of the said property (see deed recorded in Deed Book __, Page __); and

[If the property is subject to a Deed of Trust, delete the preceding “and,” and insert the following paragraph:]

WHEREAS, this property is subject to a Deed of Trust of record at Deed Book __, Page __, to _____ and _____, Trustee, to secure a note in the amount of _____ made to _____, the Trustee joins this Declaration to the end that the Deed of Trust shall be subordinate to this Declaration and its terms; and

[If the property is subject to a further encumbrance, delete the preceding “and,” and insert the following paragraph:]

WHEREAS, this property is subject to a [name of encumbrance, e.g., “Right of Way”] at Deed Book __, Page __, [name of encumbrance holder] joins this Declaration to the end that the [name of encumbrance] shall be subordinate to this Declaration and its terms; and

WHEREAS, in consideration of certain concessions made by the Director of the Virginia Department of Environmental Quality, the Grantor has agreed to establish certain irrevocable restrictive covenants limiting the use of certain portions of said property in order to protect human health and the environment;

NOW THEREFORE, for the consideration referred to above, the receipt and legal sufficiency of which is hereby acknowledged by the undersigned, and in order to protect human health and the environment, the undersigned do hereby irrevocably dedicate, declare, and impose the following restrictive covenants to run with the land on the above described property as follows:

[Insert institutional controls here, for example:

1. The groundwater beneath the property shall not be used for any purpose other than environmental monitoring and testing or de-watering in compliance with law.

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2. The property shall not be used for residential purposes, or for children's (under the age of 16) daycare facilities, schools, or playground purposes (although hotels and motels are not prohibited).]

This Declaration of Restrictive Covenants may be modified or released only in accordance with 9 VAC 20-160-65 and with the consent of the Director of the Department of Environmental Quality, upon a showing of changed circumstances sufficient to justify the change.

(Signature pages follow.)

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Given under my hand and seal at [*Name of City*], Virginia, on the ____ day of [*Month, Year*],

[*Name of Site Owner*]

By: [*Name*]

State of _____, County of _____

The foregoing instrument was acknowledged before me this [*Date*] by [*Name of person who signed*].

Notary Public

Registration Number: _____

My Commission expires: _____

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[If there is a deed of trust, add the following signature block:]

[Name], Trustee

State of _____, County of _____

The foregoing instrument was acknowledged before me this [Date] by [Name of person who signed].

Notary Public

Registration Number: _____

My Commission expires: _____

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[If there are other encumbrances listed on the Certificate, add a block for each party:]

[Name of encumbrance holder]

State of _____, County of _____

The foregoing instrument was acknowledged before me this [Date] by [Name of person who signed].

Notary Public

Registration Number: _____

My Commission expires: _____